

REMARKS

Continued examination and favorable reconsideration are respectfully requested. Claims 42-45 and 104-108 remain pending in this application, and claims 42 and 106 have been withdrawn. Claims 43-45 and 104-108 have been amended and claims 1-41, 46-103, and 109-110 have been previously canceled without prejudice or disclaimer. Support for the amended claims can be found in the original specification and claims, for example, at least at page 28, lines 8-22, page 29, line 20 through page 32, line 27, and from page 40, line 29, through page 43, line 12. No new matter has been added. Reconsideration and favorable action are respectfully requested.

Specification

At page 2 of the Office Action, the Examiner suggests an arrangement of the specification. In reply, Applicants wish to point out that 37 C.F.R. § 1.77(b) does not require each and every one of the section headings listed. The recommendations are not mandatory. The present Application comprises a specification, claims, and an abstract, each of which begins with a header and on a new page. Applicants thank the Examiner for the helpful suggestions but hope the suggestions do not morph into a formal objection.

Claim Rejections Under 35 U.S.C. § 112 , first and second paragraphs

At pages 2-5 of the Office Action, claims 43-45, 104-105, and 107-108 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. For the reasons set forth herein, this rejection is respectfully traversed.

The Office Action specifically alleges that the language of the claims is vague and

indefinite and fails to specify the purpose of the method. Applicants have amended each of the rejected claims to more clearly and concisely define the claimed invention, to set-forth a more specific analyte (a peptide analyte), and to more clearly state that the method comprises performing mass spectrometry on the sample mixture to analyze isobarically labeled peptide analytes. In view of these amendments to the claims, reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, are respectfully requested.

At page 5 of the Office Action, claims 43-45, 104-105, and 107-108 are rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. For the reasons set forth herein, reconsideration and withdrawal of the rejection are respectfully requested.

As discussed above, the claims have been amended to more particularly recite what the method is directed to carry out. As regards the nature of the analyte, the claims have been amended to recite that the analytes are peptide analytes.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

Claim Rejection Under 35 U.S.C. §103(a)

At page 5 of the Office Action, claims 43-45, 104-105, and 107-108 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Zhou et al. (Nature Biotechnology, 2002, IDS) in view of Van Ness et al. (EP 0990047 B1, IDS). For the reasons set forth herein, this rejection is respectfully traversed.

At page 6 of the Office Action, lines 5-6, the Examiner admits that Zhou et al. fails to disclose a reporter moiety that comprises a substituted or non-substituted piperidine compound.

Moreover, the Examiner alleges that Zhou et al. discloses reported moieties that are substituted aromatics, a position with which Applicants respectfully disagree. As shown at page 512 of Zhou et al., the isotope tagging method employs a complex that includes an aromatic structure, but the aromatic structure is not a part of a reporter moiety. According to Zhou et al., the portion of the photocleavable linker that comprises the aromatic moiety remains bound to a bead after photocleavage at the indicated photocleavage site. After photocleavage, the reporter moiety that is released at the photocleavage site and includes the SH-reactive group, does not include the aromatic moiety. Thus, it is respectfully submitted that, contrary to the Examiner's assertion, Zhou et al. does not disclose a reporter moiety that comprises a substituted aromatic.

Each of pending claims 43-45, 104, 105, and 107-108 has also been amended to recite that the first and second labeling reagents are reagents from the same set of isobaric labeling reagents. It is respectfully submitted that Zhou et al. fails to disclose or suggest a set of isobaric labeling reagents. In use, the claimed method can provide a first labeled peptide analyte and a second labeled peptide analyte, which have the same mass, but which can be fragmented into different respective mass fragments with the differences being based on the particular isotopic arrangement in the two different isobaric labeling reagents.

At page 6, the Examiner asserts that it would have been obvious to substitute the aromatic reporter moiety in Zhou et al. with any of the substituted or non-substituted piperidine reporters disclosed in the secondary reference of Van Ness et al. While Applicants disagree, even if such a substitution were made, a reporter moiety comprising a piperidine reporter would not result because, as discussed above, Zhou et al. does not include its aromatic moiety as part of the reporter moiety. If the substituted or non-substituted piperidine in Van Ness et al. were used instead of Zhou et al.'s aromatic moiety, nothing teaches or suggests that the reporter moiety in

Zhou et al. would be changed. Instead, a piperidine moiety would be what remains bound to the bead, but still a reporter moiety comprising a piperidine moiety would not result. In view of the foregoing, it is respectfully submitted that the combination of Zhou et al. and Van Ness fails to teach or suggest the claimed invention.

Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Double Patenting Provisional Rejection

At page 6 of the Office Action, claims 43-45, 104-105, and 107-108 are provisionally rejected under 35 U.S.C. § 101 over claims 38-43 of co-pending Application No. 10/765,264. A recent review of the USPTO P.A.I.R. records indicates that Application No. 10/765,264 is abandoned. Thus, the double patenting rejection is believed to be moot and reconsideration and withdrawal of this provisional rejection are respectfully requested. Furthermore, Applicants wish to point out that Application 12/582,689, filed October 20, 2009, claims the benefit of Application No. 10/765,264.

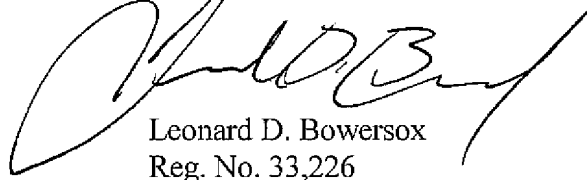
CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration of the present application and a timely allowance of the pending claims.

Should the Examiner deem that any further action by Applicants or Applicants' undersigned representative is desirable and/or necessary, the Examiner is invited to telephone the undersigned at the number set forth below.

If there are any other fees due in connection with the filing of this response, please charge the fees to deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Leonard D. Bowersox', is written over the typed name and registration number.

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